

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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| UNITED STATES OF AMERICA | § | |
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| | § | |
| v. | § | CASE NO. 4:18-CR-00368 |
| | § | |
| SCOTT BREIMEISTER (02) | § | |

**BREIMEISTER’S OPPOSED MOTION FOR THE
GOVERNMENT TO DISCLOSE ALL CASES ON WHICH MEMBERS OF THE
“REVIEW TEAM” HAVE WORKED WITH MEMBERS OF THE “TRIAL TEAM”**

TO THE HONORABLE ALFRED H. BENNETT:

Defendant Scott Breimeister files this opposed motion for the Government to disclose all cases on which members of the “Review Team” have worked with members of the “Trial Team,” and would show as follows:

I.

The Department of Justice (DOJ) assigned Allan Medina and Alexander Kramer of the DOJ Fraud Unit to conduct an internal investigation into what caused the mistrial in this case and to represent the Government in post-trial proceedings. They call themselves the “Review Team.”

Three prosecutors led the DOJ “Trial Team,” whose conduct is under investigation. It included agents from different investigating agencies. Like Medina and Kramer, the trial prosecutors also work in the DOJ Fraud Unit.

The defendants have cautioned the Court that the “Review Team” labors under an inherent conflict of interest that undermines confidence in the impartiality and reliability of this internal investigation because Fraud Unit lawyers cannot impartially investigate colleagues in their own Unit. The “Review Team” claims to be independent and has not disclosed any conflicts of interest.

II.

Breimeister recently filed an Advisory (Doc. 459) alerting the Court that Kramer, a member

of the “Review Team,” and Katherine Raut, a member of the “Trial Team,” are co-counsel for the Government in *United States v. Merlo Hidalgo, et al*, case no. 1:22-cr-20311, which is pending in the United States District Court for the Southern District of Florida, Miami Division. DOJ identified Kramer and Raut as the lead prosecutors in its press release dated July 19, 2022.¹ As recently as March 28, 2023, Raut signed a plea agreement on behalf of herself and Kramer. *See United States v. Merlo Hidalgo, et al*, case no. 1:22-cr-20311 (S.D. Fla.) (Doc. 47 at p. 16).

III.

Based on Kramer and Raut’s relationship in *Merlo Hidalgo*, Breimeister requests that the Court order the Government to disclose all cases—past, pending, and ongoing investigations that have not yet resulted in charges²—on which one or more members of the “Review Team” represented the Government along with one or members of the “Trial Team.”

The Government opposes this request, which begs the question: What is the Government hiding? If the Government wants the public, the Court, and the defendants to have *any* confidence in its internal investigation, then it must reveal all potential and actual conflicts of interest between the people conducting the investigation and the people being investigated. This Court should not defer to the Government’s representations that the misconduct in this case was “much ado about nothing” without knowing the relationships between the investigators and the trial prosecutors and agents. The Court certainly should not deny Breimeister’s request for an evidentiary hearing on his motion to dismiss the indictment based on governmental misconduct without knowing whether the Government’s internal investigation is tainted by conflicts of interest.

Breimeister requests that the Court order the Government to disclose this information before the hearing on his Double Jeopardy motion that is scheduled for May 4, 2023.

¹ <https://www.justice.gov/opa/pr/three-men-charged-ecuadorian-bribery-and-money-laundering-scheme>.

² The Government can provide aliases for any unindicted cases under active investigation.

CONCLUSION

The Court should order the Government to disclose all cases—past, pending, and ongoing investigations that have not resulted in charges—on which one or more members of the “Review Team” represented the Government along with one or members of the “Trial Team.”

Respectfully submitted,

/s/ Josh Schaffer
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**ATTORNEYS FOR DEFENDANT
SCOTT BREIMEISTER**

CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for the government, Alexander Kramer and Allan Medina, on April 12, 2023; and Medina stated that the Government opposes this motion.

/s/ Josh Schaffer
Josh Schaffer

CERTIFICATE OF SERVICE

I certify that I served this motion on counsel of record using the CM/ECF system on April 19, 2023.

/s/ Josh Schaffer
Josh Schaffer